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20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

22 IN-N-OUT BURGERS, a California
23 Corporation,

24 Plaintiff,

25 v.

26 SAI M. ONG, an individual d/b/a
27 “IN N OUT SMOG CHECK,” BO
28 TRAN, an individual d/b/a “IN &
OUT SMOG CHECK,” PHI L. LE,
an individual d/b/a “IN-N-OUT

Case No. C07 05453 JL

Assigned for all purposes to the
Honorable James Larson, Dept. F

NOTICE OF DISMISSAL

Date: January 30, 2008

Time: 10:00 a.m.

Dept.: F

SMOG CHECK,” MAN Q. DINH,
an individual d/b/a “IN N OUT
SMOG CHECK,”

Defendants.

**TO THE CLERK OF THE COURT AND ALL PARTIES AND THEIR
ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 41(a)(1)(i), plaintiff IN-N-OUT BURGER (“INO BURGER”) hereby dismisses the above-captioned matter against defendants SAI M. ONG, an individual d/b/a “IN N OUT SMOG CHECK”, BO TRAN, an individual d/b/a “IN & OUT SMOG CHECK”, PHI L. LE, an individual d/b/a “IN-N-OUT SMOG CHECK”, and MAN Q. DINH, an individual d/b/a “IN N OUT SMOG CHECK” for state and federal Trademark Infringement, state, federal, and common law Unfair Competition, and dilution under California law, without prejudice.

PLEASE TAKE FURTHER NOTICE that INO BURGER requests that the Court take the Initial Case Management Conference, scheduled for January 30, 2008, at 10:30 a.m., off calendar.

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1 Dated: January 25, 2008 Respectfully submitted,

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3 By: _____/s/_____

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28 Attorneys for IN-N-OUT BURGERS

PROOF OF SERVICE

I am employed in the County of Orange, State of California, am over the age of 18 and not a party to the within action. My business address is Pepper Hamilton LLP, 5 Park Plaza, Suite 1700, Irvine, California 92614. I am over the age of 18 and not a party to the action. I am readily familiar with the firm's practice of collection and processing of correspondence for mailing.

On the date set forth below, I served the foregoing documents described ***Notice of Dismissal*** on all interested parties in this action by placing ☐ the original ☐ a true copy thereof in a sealed envelope addressed as follows:

Bo Tran 1295 West San Carlos Street San Jose, CA 95113	Sai M. Ong 226 Phelan Avenue, #F San Jose, CA 95112
Phi L. Le 490 Keyes Street San Jose, CA 95112	Man Q. Dinh 3114 Dakan Court, Unit 3 San Jose, CA 95136

☒ **BY MAIL:** I am "readily familiar" with Pepper Hamilton's practice for collecting and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereof fully prepaid at Irvine, California, on that same day following ordinary business practices.

☐ **BY OVERNIGHT DELIVERY:** I deposited such document(s) in a box or other facility regularly maintained by the overnight service carrier, or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier with delivery fees paid or provided for, addressed to the person(s) being served.

☐ **BY PERSONAL SERVICE:** I caused to be personally delivered such envelope(s) directly to the person(s) being served.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare under penalty of perjury under the laws of United States of America that the above is true and correct.

I declare that I am employed in the office of a member of the bar of this Court at whose direction this service was made. Executed on January 25, 2008, at Irvine, California.


Raquel Moreno